

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LISA BULLARD, RICARDO GONZALES,
CYNTHIA RUSSO, INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS LOCAL 38 HEALTH AND
WELFARE FUND, INTERNATIONAL
UNION OF OPERATING ENGINEERS
LOCAL 295-295C WELFARE FUND, AND
STEAMFITTERS FUND LOCAL 439, on
Behalf of Themselves and All Others Similarly
Situated,

Plaintiffs,

v.

WALGREEN CO.,

Defendant.

Civil No. 17-cv-2246

Judge John Z. Lee
Magistrate Judge Sheila Finnegan

**JOINT AGREED MOTION FOR AN EXTENSION OF TIME TO SUBMIT
CLASS CERTIFICATION BRIEFING AND EXPERT REPORTS**

Plaintiffs Lisa Bullard, Ricardo Gonzales, Cynthia Russo, International Brotherhood of Electrical Workers Local 38 Health and Welfare Fund, International Union of Operating Engineers Local 295-295c Welfare Fund, and Steamfitters Fund Local 439 (collectively, “Plaintiffs”) and Defendant Walgreen Co. (“Walgreens”) (collectively, with Plaintiffs, the “Parties”) jointly move to extend the deadlines for the submission of class certification briefing and expert reports set by Order dated July 20, 2022. ECF No. 533. In support of the Motion, the Parties state as follows:

1. By Agreed Order dated July 20, 2022 (ECF No. 533), the Court entered the operative deadlines for the submission of class certification briefing and expert reports.
2. As set forth in the Parties’ August 17, 2022 Joint Status Report, “the Parties have been meeting and conferring regarding Plaintiffs’ request for 30(b)(6) testimony regarding

structured data produced by Walgreens.” (ECF No. 536.) As further set forth in that Joint Status Report, on August 2, 2022, Plaintiffs informed Walgreens by email that the Parties had reached agreement as to the text of the draft declaration that Walgreens provided to Plaintiffs on July 11, 2022. (*Id.*) During the negotiations over the declaration, Walgreens’ counsel had informed Plaintiffs that, once a draft had been agreed to between counsel, Walgreens would need to do a final review for accuracy. As part of Plaintiffs’ August 2, 2022 email, Plaintiffs asked Walgreens to promptly inform Plaintiffs if Walgreens identified any proposed changes in the process of finalizing the declaration prior to execution. On August 17, 2022, the Joint Status Report stated that “Walgreens is in the process of reviewing the final agreed-upon language and, barring any additional changes needed for accuracy, anticipates being able to execute the declaration no later than August 29, 2022, consistent with Plaintiffs’ request that Walgreens execute the declaration no later than two weeks before Plaintiffs’ motion for class certification and expert reports are due.”

3. On Thursday, August 25, 2022, Walgreens proposed several changes to the text of the draft declaration, which included certain changes for accuracy.

4. Two days earlier, on Tuesday, August 23, 2022, Walgreens had produced to Plaintiffs Prescription Savings Club (“PSC”) enrollment and renewal data for the time period of June 2006 through July 2022. Although this was not data Walgreens had previously agreed to produce in this case, Walgreens informed Plaintiffs that it decided to produce this data now rather than waiting to produce the data later in the event Walgreens and/or its experts rely on the data. With that production, Walgreens provided Plaintiffs with certain information relating to the produced tables and fields, and asked Plaintiffs if they would like to discuss incorporating this information into the existing data declaration before finalizing it. The Parties met and conferred on Friday, August 26, 2022 regarding the August 23, 2022 production, Walgreens’ proposed

changes to the text of the draft declaration, Walgreens' offer to include additional information related to the production in the existing data declaration, and Plaintiffs' initial questions regarding the newly produced PSC enrollment and renewal data.

5. Following the Parties' meet and confer, Walgreens produced to Plaintiffs a data dictionary associated with its August 23, 2022 production.

6. On Monday, August 29, 2022, Plaintiffs sent correspondence to Walgreens with questions regarding its August 23, 2022 production. Plaintiffs also provided comments and proposed restorations to the draft declaration.

7. On Thursday, September 1, 2022, Walgreens responded to Plaintiffs' correspondence and provided certain information regarding its August 23, 2022 production. Walgreens is continuing to review Plaintiffs' outstanding questions and intends to respond by Wednesday, September 14, 2022. Walgreens also provided further comments in response to Plaintiffs' comments and restorations to the draft declaration. Plaintiffs are considering Walgreens' further comments.

8. While the Parties are not currently at impasse as to the issues under discussion, and will timely raise any issues with the Court should the parties agree they are at impasse, having met and conferred, the Parties believe that good cause exists to extend the deadlines for expert discovery and class certification briefing so the parties can continue to meet and confer to determine whether they require the Court's assistance to resolve any outstanding issues.

9. Therefore, for good cause shown, and because Walgreens' 30(b)(6) testimony relating to Walgreens' structured data bears on Plaintiffs' forthcoming motion for class certification, and the recently produced PSC enrollment and renewal data may bear on the

forthcoming motion for class certification, the Parties respectfully request that the Court order that the deadlines to submit class certification briefing and expert reports is modified as follows:

- a) The deadline for Plaintiffs' expert reports, motion for class certification, and memorandum in support is extended from September 12, 2022 to October 27, 2022.
- b) The deadline for Walgreens to depose Plaintiffs' experts is extended from November 11, 2022 to December 23, 2022.
- c) The deadline for Walgreens' expert reports and its response to the motion for class certification is extended from January 13, 2023 to February 27, 2023.
- d) The deadline for Plaintiffs to depose Walgreens' experts is extended from March 17, 2023 to May 2, 2023.
- e) The deadline for Plaintiffs' rebuttal expert reports and their reply in support of the motion for class certification is extended from April 21, 2023 to June 9, 2023.
- f) As set forth in Judge John Z. Lee's June 16, 2021 Minute Entry (ECF No. 476), if there are *Daubert* motions, the Court will consider them with class briefing.

WHEREFORE, the Parties respectfully request that the Court grant the Parties' Joint Agreed Motion for an Extension of Time to Submit Class Certification Briefing and Expert Reports.

DATED: September 8, 2022

s/ Michael Scott Leib

Michael Scott Leib
Anthony Robert Todd
REED SMITH LLP
10 S Wacker Dr # 4000
Chicago, IL 60606
Telephone: 312/207-1000
mleib@reedsmith.com
atodd@reedsmith.com

Frederick Robinson (*pro hac vice*)
Selina Coleman (*pro hac vice*)

REED SMITH LLP
1301 K Street, N.W.
Suite 1100 East Tower
Washington, DC 20005
Telephone: 202-414-9200
frobinson@reedsmith.com
scoleman@reedsmith.com

Attorneys for Defendant Walgreen Co.

s/ Joseph P. Guglielmo

Joseph P. Guglielmo (IL Bar #2759819)
Carey Alexander (IL Bar #5188461)
SCOTT+SCOTT
ATTORNEYS AT LAW LLP
The Helmsley Building
230 Park Avenue, 17th Floor
New York, NY 10169
Telephone: 212-223-4478
212/233-6334 (fax)
jguglielmo@scott-scott.com
calexander@scott-scott.com

Erin Green Comite (IL Bar #420630)

SCOTT+SCOTT
ATTORNEYS AT LAW LLP
156 S. Main Street
P.O. Box 192
Colchester, CT 06415
Telephone: 860-531-2632
Facsimile: 860-537-4432
ecomite@scott-scott.com

David W. Mitchell (IL Bar # 199706)
Brian O. O'Mara (IL Bar # 229737)
Arthur L. Shingler III (IL Bar # 181719)
ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058 619/231-7423 (fax)
davidm@rgrdlaw.com
bomara@rgrdlaw.com
ashingler@rgrdlaw.com

Stuart A. Davidson (*pro hac vice*)
Mark J. Dearman (*pro hac vice to be filed*)
Eric Scott Dwoskin (IL Bar # 0112459)
ROBBINS GELLER RUDMAN
& DOWD LLP
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
Telephone: 561-750-3000
sdavidson@rgrdlaw.com
mdearman@rgrdlaw.com
edwoskin@rgrdlaw.com

Interim Co-Lead Counsel

Katrina Carroll
CARLSON LYNCH LLP

111 W. Washington Street, Suite 1240
Chicago, IL 60602
Telephone: 312-750-1265
kcarroll@carlsonlynch.com

Local Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically through the Court's Electronic Case Filing System, which will then send a notification of such filing to the registered participants as identified on the Notice of Electronic Filing.

s/ Joseph P. Guglielmo
Joseph P. Guglielmo